

AMENDED IN SENATE APRIL 27, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 976

Introduced by Senator Vidak

February 10, 2016

An act to amend Section 87406 of the Government Code, relating to the Political Reform Act of 1974, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 976, as amended, Vidak. Political Reform Act of 1974: postgovernment employment.

The Milton Marks Postgovernment Employment Restrictions Act of 1990 prohibits a Member of the Legislature, for a period of one year after leaving office, from acting as a compensated agent or attorney for, or otherwise representing, any other person by making appearances before or communications ~~with~~, *with* the Legislature or its committees, present Members, or officers or employees, if the appearance or communication is made for the purpose of influencing legislative action.

This bill would extend the time period for these prohibitions *for a Member of the Legislature who resigns from office to the conclusion of the next regular legislative session that begins after the Member leaves office. 2 years commencing with the effective date of the resignation.* The bill would additionally prohibit a Member from engaging in the above-described post legislative employment activities before the Governor, or any officer or employee thereof.

Existing law prohibits an elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, from acting as a compensated agent or attorney for, or otherwise representing

any other person by making any formal or informal ~~appearance,~~
appearance or by making any oral or written communication before
any state administrative ~~agency,~~ *agency* or any officer or employee
thereof, if the appearance or communication is for the purpose of
influencing specified administrative actions.

The bill would extend the time period for these prohibitions *for an
elected state officer who resigns from office to two 2 years after the
final date of the term to which the officer was elected: commencing
with the effective date of the resignation.*

Because a violation of the act is punishable as a misdemeanor, this
bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local
agencies and school districts for certain costs mandated by the state.
Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act
for a specified reason.

The Political Reform Act of 1974, an initiative measure, provides
that the Legislature may amend the act to further the act's purposes
upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural
requirements.

This bill would declare that it furthers the purposes of the act.

This bill would declare that it is to take effect immediately as an
urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 87406 of the Government Code is
2 amended to read:

3 87406. (a) This section shall be known, and may be cited, as
4 the Milton Marks Postgovernment Employment Restrictions Act
5 of 1990.

6 (b) ~~No (1)~~ Except as provided in paragraph (2), a Member of
7 the Legislature, for a period of one year after leaving office, shall
8 not, for compensation, act as agent or attorney for, or otherwise
9 represent, any other person by making any formal or informal
10 appearance, or by making any oral or written communication,
11 before the Legislature, any committee or subcommittee thereof,
12 any present Member of the Legislature or the Governor, or any

officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.

(2) *A Member of the Legislature who resigns from office, for a period of two years commencing with the effective date of the resignation, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before the Legislature, any committee or subcommittee thereof, any present Member of the Legislature or the Governor, or any officer or employee thereof, if the appearance or communication is made for the purpose of influencing legislative action.*

(c) ~~No~~ (1) *Except as provided in paragraph (2), an elected state officer, other than a Member of the Legislature, for a period of one year after leaving office, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.*

(2) *An elected state officer, other than a Member of the Legislature, who resigns from office, for a period of two years commencing with the effective date of the resignation, shall not, for compensation, act as agent or attorney for, or otherwise represent, any other person by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or any officer or employee thereof, if the appearance or communication is for the purpose of influencing administrative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property.*

(3) *For purposes of this subdivision, an appearance before a “state administrative agency” does not include an appearance in a court of law, before an administrative law judge, or before the Workers’ Compensation Appeals Board.*

(d) (1) ~~No~~A designated employee of a state administrative agency, any officer, employee, or consultant of a state administrative agency who holds a position which entails the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest, and no member of a state administrative agency, for a period of one year after leaving office or employment, shall *not*, for compensation, act as agent or attorney for, or otherwise represent, any other person, by making any formal or informal appearance, or by making any oral or written communication, before any state administrative agency, or officer or employee thereof, for which he or she worked or represented during the 12 months before leaving office or employment, if the appearance or communication is made for the purpose of influencing administrative or legislative action, or influencing any action or proceeding involving the issuance, amendment, awarding, or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. For purposes of this paragraph, an appearance before a state administrative agency does not include an appearance in a court of law, before an administrative law judge, or before the Workers' Compensation Appeals Board. The prohibition of this paragraph ~~shall only apply~~ *applies* to designated employees employed by a state administrative agency on or after January 7, 1991.

(2) For purposes of paragraph (1), a state administrative agency of a designated employee of the Governor's office includes any state administrative agency subject to the direction and control of the Governor.

(e) The prohibitions contained in subdivisions (b), (c), and (d) shall not apply to any individual subject to this section who is or becomes any of the following:

(1) An officer or employee of another state agency, board, or commission if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the state agency, board, or commission.

(2) An official holding an elective office of a local government agency if the appearance or communication is for the purpose of influencing legislative or administrative action on behalf of the local government agency.

~~(f) This section shall become operative on January 1, 1991, but only if Senate Constitutional Amendment No. 32 of the 1989-90~~

1 Regular Session is approved by the voters. With respect to
2 Members of the Legislature whose current term of office on
3 January 1, 1991, began in December 1988, this section shall not
4 apply until January 1, 1993.

5 SECTION 1. Section 87406 of the Government Code is
6 amended to read:

7 87406. (a) This section shall be known, and may be cited, as
8 the Milton Marks Postgovernment Employment Restrictions Act
9 of 1990.

10 (b) During the period from the date a Member of the Legislature
11 leaves office until the conclusion of the next regular legislative
12 session that begins after the Member leaves office, the Member
13 shall not, for compensation, act as agent or attorney for, or
14 otherwise represent, any other person by making any formal or
15 informal appearance, or by making any oral or written
16 communication, before the Legislature, any committee or
17 subcommittee thereof, any present Member of the Legislature or
18 the Governor, or any officer or employee thereof, if the appearance
19 or communication is made for the purpose of influencing legislative
20 action.

21 (c) An elected state officer, other than a Member of the
22 Legislature, for a period of two years after the final date of the
23 term to which the officer was elected, shall not, for compensation,
24 act as agent or attorney for, or otherwise represent, any other person
25 by making any formal or informal appearance, or by making any
26 oral or written communication, before any state administrative
27 agency, or any officer or employee thereof, if the appearance or
28 communication is for the purpose of influencing administrative
29 action, or influencing any action or proceeding involving the
30 issuance, amendment, awarding, or revocation of a permit, license,
31 grant, or contract, or the sale or purchase of goods or property. For
32 purposes of this subdivision, an appearance before a "state
33 administrative agency" does not include an appearance in a court
34 of law, before an administrative law judge, or before the Workers'
35 Compensation Appeals Board.

36 (d) (1) A designated employee of a state administrative agency,
37 any officer, employee, or consultant of a state administrative
38 agency who holds a position which entails the making, or
39 participation in the making, of decisions which may foreseeably
40 have a material effect on any financial interest, and a member of

1 a state administrative agency, for a period of one year after leaving
2 office or employment, shall not, for compensation, act as agent or
3 attorney for, or otherwise represent, any other person, by making
4 any formal or informal appearance, or by making any oral or
5 written communication, before any state administrative agency,
6 or officer or employee thereof, for which he or she worked or
7 represented during the 12 months before leaving office or
8 employment, if the appearance or communication is made for the
9 purpose of influencing administrative or legislative action, or
10 influencing any action or proceeding involving the issuance,
11 amendment, awarding, or revocation of a permit, license, grant,
12 or contract, or the sale or purchase of goods or property. For
13 purposes of this paragraph, an appearance before a state
14 administrative agency does not include an appearance in a court
15 of law, before an administrative law judge, or before the Workers'
16 Compensation Appeals Board. The prohibition of this paragraph
17 only applies to designated employees employed by a state
18 administrative agency on or after January 7, 1991.

19 (2) For purposes of paragraph (1), a state administrative agency
20 of a designated employee of the Governor's office includes any
21 state administrative agency subject to the direction and control of
22 the Governor.

23 (e) The prohibitions contained in subdivisions (b), (c), and (d)
24 do not apply to any individual subject to this section who is or
25 becomes any of the following:

26 (1) An officer or employee of another state agency, board, or
27 commission if the appearance or communication is for the purpose
28 of influencing legislative or administrative action on behalf of the
29 state agency, board, or commission.

30 (2) An official holding an elective office of a local government
31 agency if the appearance or communication is for the purpose of
32 influencing legislative or administrative action on behalf of the
33 local government agency.

34 SEC. 2. No reimbursement is required by this act pursuant to
35 Section 6 of Article XIII B of the California Constitution because
36 the only costs that may be incurred by a local agency or school
37 district will be incurred because this act creates a new crime or
38 infraction, eliminates a crime or infraction, or changes the penalty
39 for a crime or infraction, within the meaning of Section 17556 of
40 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

3 SEC. 3. The Legislature finds and declares that this bill furthers
4 the purposes of the Political Reform Act of 1974 within the
5 meaning of subdivision (a) of Section 81012 of the Government
6 Code.

7 SEC. 4. This act is an urgency statute necessary for the
8 immediate preservation of the public peace, health, or safety within
9 the meaning of Article IV of the Constitution and shall go into
10 immediate effect. The facts constituting the necessity are:

11 In order to apply this act's postgovernment employment
12 restrictions to elected officials who are currently in office, it is
13 necessary that this act take immediate effect.